

No. _____
CAPITAL CASE

IN THE

Supreme Court of the United States

LESLIE GALLOWAY III,

Petitioner,

—V.—

STATE OF MISSISSIPPI,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO THE MISSISSIPPI SUPREME COURT

MOTION TO PROCEED *IN FORMA PAUPERIS*

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Counsel for the Petitioner

April 5, 2024

No. __

CAPITAL CASE

IN THE SUPREME COURT OF THE UNITED STATES

LESLIE GALLOWAY III,

Applicant,

-v-

STATE OF MISSISSIPPI,

Respondent.

MOTION TO PROCEED *IN FORMA PAUPERIS*

Petitioner Leslie Galloway III, through undersigned counsel, moves pursuant to Supreme Court Rule 39.1 for leave to proceed *in forma pauperis* in his concurrently filed Petition for Writ of Certiorari to the Mississippi Supreme Court. Mr. Galloway is indigent and has been appointed counsel in state court.

On October 28, 2013, the Mississippi Supreme Court issued an order directing the Office of Capital Postconviction Counsel to appoint counsel, pursuant to Miss. Code Ann. § 99-39-23(9), and directing the Circuit Court of Harrison County to determine whether Mr. Galloway was indigent and desired appointment of counsel. *See* attached Order, Appendix A. On December 6, 2013, the Harrison County Circuit Court determined that Mr. Galloway was indigent, formally appointed counsel, and

forwarded the order to the Mississippi Supreme Court. See attached order, Appendix B.

Undersigned counsel hereby certify that Mr. Galloway remains indigent.

Mr. Galloway requests that this Court allow him to proceed *in forma pauperis*.

Dated: Apr. 4th, 2024

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Respectfully submitted,

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New York, NY 10004

Counsel for Petitioner-Applicant

APPENDIX A

Serial: 187681

IN THE SUPREME COURT OF MISSISSIPPI

No. 2013-DR-01796-SCT

*LESLIE GALLOWAY, III A/K/A LESLIE
GALLOWAY A/K/A LESLIE "BO"
GALLOWAY, III*

v.

STATE OF MISSISSIPPI

FILED

OCT 28 2013

OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS

ORDER

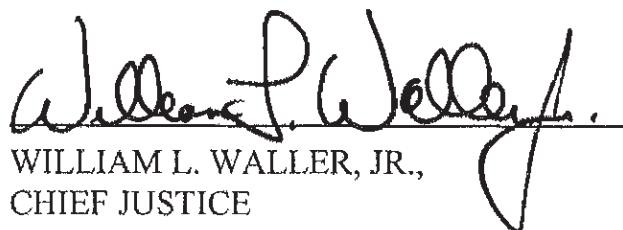
This matter came before the undersigned Justice on the Court's own motion. This Court has affirmed the conviction and sentence of death of Leslie Galloway, III, in *Galloway v. State*, No. 2010-DP-01927-SCT (Miss. June 6, 2013). The Court denied Galloway's Motion for Rehearing on September 26, 2013. Pursuant to Miss. Code Ann. § 99-39-23(9), the Office of Capital Post-Conviction Counsel shall appoint counsel to provide representation to Galloway in post-conviction proceedings.

IT IS THEREFORE ORDERED that the Office of Capital Post-Conviction Counsel shall, on or before November 27, 2013, select counsel to represent Galloway in post-conviction proceedings and shall advise the Circuit Court of Harrison County, First Judicial District, and this Court of such appointment. On or before December 30, 2013, the Circuit Court of Harrison County, First Judicial District, shall determine whether Galloway is indigent and whether he desires appointment of counsel. In the event that Galloway does not desire counsel, the circuit court shall then determine whether he is otherwise represented by

counsel or has, under the provisions of Rule 22(c)(2) of the Mississippi Rules of Appellate Procedure, made an informed and voluntary election to proceed pro se. This Court shall be advised of the outcome of all proceedings.

IT IS FURTHER ORDERED that within sixty (60) days following appointment, if any, the attorney shall examine the record and conduct a preliminary investigation and file with this Court a statement as to whether the attorney finds any issue with potential post-conviction merit. The application for leave to file a motion for post-conviction relief shall be filed within 180 days following appointment of counsel, unless such time is extended by order of this Court.

SO ORDERED, this the 28th day of October, 2013.


WILLIAM L. WALLER, JR.,
CHIEF JUSTICE

APPENDIX B

Gayle Parker

P.O. BOX 998
GULFPORT, MS 39502

CIRCUIT COURT
865-4147
FAX 865-4009

VOTER REGISTRATION
& MARRIAGE LICENSE
865-4005
FAX 865-4099

COUNTY COURT
865-4010
FAX 867-6523



CLERK OF CIRCUIT AND COUNTY COURTS
HARRISON COUNTY

P.O. BOX 235
BILOXI, MS 39533

PHONE

December 9, 2013

Supreme Court Clerk
P.O. Box 249
Jackson, MS 39205

Re: STATE OF MISSISSIPPI
No: B2401-2009-00468
Vs.: LESLIE GALLOWAY, III

CIRCUIT COURT FIRST JUDICIAL DISTRICT

Dear Clerk:

Enclosed please find a certified copy of the ORDER, in which Mr. Galloway is found indigent and formally appointing Mrs. Williams as lead counsel. This Order was executed by the Honorable Roger T. Clark on the 6th day of December, 2013. The Original transcript of the hearing is attached to the Order as an exhibit.

If there are any questions concerning this matter, please feel free to contact our office. I remain

Sincerely,

Gayle Parker, Circuit Clerk

By:

Yvette M. Livaccari, Deputy Clerk

Enclosures



cc: Honorable Joel Smith, District Attorney
for the State of Mississippi

Honorable Louwlynn Vanzetta Williams, Office of
Capital Post-Conviction Counsel

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IN THE CIRCUIT OF COURT OF HARRISON COUNTY
FIRST JUDICIAL DISTRICT

LESLIE GALLOWAY, III A/K/A LESLIE
GALLOWAY A/K/A LESLIE "BO"
GALLOWAY, III

- 468

v.

B2401-09-268

STATE OF MISSISSIPPI

ORDER

This matter came before the court on December 6, 2013, as instructed by the October 28, 2013, order of the Mississippi Supreme Court in Cause No. 2013-DR-0179-SCT. The Mississippi Supreme Court ordered this Court to determine "on or before December 30, 2013, whether Leslie Galloway is indigent and whether he desires appointment of counsel."

The Mississippi Supreme Court has affirmed the conviction and sentence of death of Leslie Galloway, III, in *Galloway v. State*, No. 2010-DP-01927. Pursuant to Miss. Code Ann. §99-39-23(9), the Office of Capital Post-Conviction Counsel has appointed Louwlynn Vanzetta Williams as lead counsel for Mr. Galloway.

Mr. Galloway, at the December 6, 2013, hearing, testified under oath that he has no assets and the Court finds that he is, in fact, indigent. Mr. Galloway further testified that he desires appointment of counsel and the Court formally appointed Mrs. Williams as his lead counsel.

A transcript of the hearing is attached to this order as an exhibit.

SO ORDERED AND ADJUDGED, this the 6 day of December, 2013

FILED
DEC - 6 2013
GAYLE PARKER, Circuit Clerk
By B. Dolson DC

Roger T. Clark
ROGER T. CLARK
CIRCUIT COURT JUDGE

HARRISON COUNTY
CIRCUIT COURT

STATE OF MISSISSIPPI
VERSUS
LESLIE GALLOWAY

HC CAUSE NO. 09-268
SC CAUSE NO. 2013-DR-0179-SCT

COPY

VOLUME 1 OF 1

PAGES 1-8

1 IN THE CIRCUIT COURT OF HARRISON COUNTY, MISSISSIPPI
2 FIRST JUDICIAL DISTRICT

3
4 STATE OF MISSISSIPPI

5 VERSUS HARRISON CT CAUSE NO. 09-268
6 SUPREME CT CAUSE NO. 2013-DR-0179-SCT

7 LESLIE GALLOWAY DEFENDANT

8
9 -----
10
11 TRANSCRIPT OF THE PROCEEDINGS HAD AND DONE IN THE
12 HEARING HAD IN THE ABOVE STYLED AND NUMBERED CAUSE,
13 BEFORE THE HONORABLE ROGER T. CLARK, CIRCUIT COURT
14 JUDGE OF THE SECOND CIRCUIT COURT DISTRICT OF THE STATE
15 OF MISSISSIPPI, ON DECEMBER 6TH, 2013.

16
17 -----
18 APPEARANCES:

19 Present and Representing the State:

20 HONORABLE PATRICIA M. SIMPSON
21 HONORABLE MITCHELL OWEN
22 Franke & Salloum PLLC
23 PO Drawer 460
24 Gulfport MS 39502-0460

25
26 Present and Representing the Defendant:
27
28
29

THE COURT: All right. We are here this morning in Cause Number 2013-DR-01796-SCT from the Supreme Court of Mississippi in the case styled Leslie Galloway versus the State of Mississippi. Let the record show that Mr. Galloway is present in court this morning for this hearing.

Mr. Galloway is under sentence of death as a result of a conviction in a capital murder case on September 23rd, 2010, and the subsequent imposition of the death penalty by the jury in that case. The Court notes that the conviction and death sentence penalty have been affirmed by the Supreme Court.

This Court has received an order from the Supreme Court dated October the 28th of 2013 ordering this Court to conduct a hearing to determine two things. The first thing is that the Office of Capital Post Conviction Counsel shall appoint counsel to represent Mr. Galloway in post conviction proceedings. That part of the order has been fulfilled by a document filed on November the 14th of 2013 by the office of Capital Post Conviction Counsel. This document is entitled notice of selection of counsel, and it appoints Ms. Louwlynn, L-O-U-W-L-Y-N-N, Vanzetta Williams to serve as lead counsel for Mr. Galloway. And the office of Capital Post Conviction

1 Counsel has accepted representation of
2 Mr. Galloway, should he so desire that they
3 represent him.

4 The second matter that the Supreme Court
5 asks this Court to determine is whether or
6 not Mr. Galloway is indigent, and whether or
7 not he desires appointment of counsel for his
8 post conviction proceedings.

9 At this point, Mr. Galloway, I would
10 like to ask you to come up to the podium so
11 that you can respond to some questions by the
12 Court.

13 All right, would you administer the
14 oath, please. Raise your right hand and take
15 the oath, please, sir.

16 (THE OATH WAS ADMINISTERED)

17 THE DEFENDANT: Yes.

18 THE COURT: All right. Mr. Galloway, my
19 first inquiry is to determine whether or not
20 you are indigent. How long now have you been
21 in jail?

22 THE DEFENDANT: Five years.

23 THE COURT: Five years. Okay, do you
24 have any source of income whatsoever in order
25 to hire your personal counsel to represent
26 you in your post conviction relief procedure?

27 THE DEFENDANT: No, sir.

28 THE COURT: Are you telling the Court
29 that you have no assets at all?

1 THE DEFENDANT: None, sir.

2 THE COURT: All right. The Court, based
3 on the testimony of Mr. Galloway, finds that
4 he is indigent and entitled to have counsel
5 appointed to represent him in his post
6 conviction relief proceedings in the event
7 that he desires such counsel.

19 THE DEFENDANT: I guess so. I don't
20 know them, but --

1 your trial and so forth, these matters can be
2 addressed in post conviction relief
3 proceedings. And it requires gathering of
4 evidence and filing of briefs to the Supreme
5 Court, legal briefs to the Supreme Court to
6 ask the Court to review certain issues that
7 you decide need to be reviewed, or you and
8 your counsel decide that need to be reviewed.
9 So that's what I'm talking about when I say
10 post conviction relief proceedings.

11 So with that explanation, do you
12 understand who these people are and their
13 role?

14 THE DEFENDANT: Yes, sir, but it's like
15 Glenn, sir, he was appointed to me and --

22 THE COURT: You think that you would
23 prefer to have Mr. Glenn Rishel?

29 THE DEFENDANT: Like I said, I don't

1 know the capital defense lawyers, and I don't
2 know if I want them or not. You know, I
3 don't know if they're good or they just
4 taking up a job.

5 THE COURT: I'm sorry, you what?

6 THE DEFENDANT: I said I don't know if
7 they're good or they just accepting the job.

8 THE COURT: This is what they specialize
9 in, and this is a group that the Supreme
10 Court appoints to represent people who are
11 under conviction for capital murder. So they
12 are probably the best lawyers in the state to
13 handle these kind of matters. And all you
14 have to do is tell me if you want them to
15 represent you, and I will formally appoint
16 them as your attorneys.

17 THE DEFENDANT: Yes, sir. I can't deny
18 any help.

19 THE COURT: You need the help?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Well, I agree. I think you
22 do need the help. You need legal help. You
23 have never had any legal training yourself,
24 have you?

25 THE DEFENDANT: No, sir.

26 THE COURT: I think it would be much
27 better for you to represent your issues in
28 the case to have this kind of legal help and
29 I'm ready to appoint them if you tell me to.

1 THE DEFENDANT: Yes, sir.

2 THE COURT: All right. Then I am going
3 to appoint The Office of Capital Post
4 Conviction Counsel to represent you, and Ms.
5 Williams will be in touch with you to discuss
6 your case and get started with these
7 proceedings shortly.

8 THE DEFENDANT: Yes, sir.

9 THE COURT: All right. Any questions
10 you have of me?

11 THE DEFENDANT: No, sir.

12 THE COURT: All right. Court's
13 adjourned.

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1 STATE OF MISSISSIPPI

2 COUNTY OF HARRISON

3 CERTIFICATE OF COURT REPORTER

4 I, Patricia Bodin, CSR, Official Court Reporter
5 for the Second Circuit Court District of the State of
6 Mississippi, do hereby certify that the foregoing 7
7 pages constitute, to the best of my skill and ability,
8 a true and correct transcript of my stenographic notes
9 and electronic tape recording of the HEARING had on the
10 6TH day of December, 2013, before the Honorable ROGER
11 T. CLARK, Circuit Court Judge of the Second Circuit
12 Court District of the State of Mississippi, being a
13 regular day in the December Term of Harrison County
14 Circuit Court at Gulfport.

15 This is to further certify that I have this date
16 filed the original and one copy of said transcript,
17 along with one electronic cd in pdf language, for
18 inclusion in the record on appeal, with the Clerk of
19 the Circuit Court of Harrison County, Mississippi, and
20 have notified the attorneys of record and the Supreme
21 Court of my actions herein.

22 WITNESS MY SIGNATURE on this, the 6TH day of
23 December, A.D., 2013.

24 
25

26 PATRICIA BODIN, CSR
27 Official Court Reporter

28 COURT REPORTER'S FEE: \$21.60

29